

# Encroachers on their own lands

In Chhattisgarh, the Forest Rights Act potentially allows 7.4 million tribal and other traditional forest dwellers to claim land rights. However, half these claims have been rejected and the land siphoned off, often arbitrarily. **Jacob Koshy** reports on the difficulties in implementing the Act and the plight of the Adivasis

Three years ago, Sunder Singh Kumeti, a Gond tribal, lost access to a parcel of land in the forest that he and his family had foraged for two generations. Before that, Kumeti recalls his work routine as being more or less the same everyday from boyhood. He would walk, along with his fellow villagers, several kilometres into the forest abutting his village looking for flowers from the mahua tree, or wood from the stout sal tree. His village, Patkalbeda, located in Antagarh panchayat of Kanker district in Chhattisgarh, is mostly forest area, though not classified as a reserve forest or a protected area.

Alongside maintaining their rice fields, collecting forest produce is a key economic activity for the nearly 30 families of the village. To collect berries and wood, the average Patkalbeda tribal forays 8-10 km deep into the forest. Fruits and timber apart, the palms – particularly the ‘salphi’ tree, known to produce a sweet, milky, alcoholic liquid – are also considered the bounty of these parts. The deciduous forests of this region, which make up the northern half of Bastar, are classified as ‘moderately dense’ by the forest law. Collecting and trading this produce with townsfolk has been a generations-old practice, says Kumeti. He imagined that life would be no different for his children. But that was not to be.

### A year that changed lives

In September 2016, Kumeti and the residents of his village witnessed a cavalcade of trucks bearing iron rods, earth-moving equipment and large vats of cement mixers rolling into these areas. It didn’t occur to Kumeti then that the collective fate of his village was going to irrevocably change. Some of the men accompanying the vehicles looked familiar: they were contractors with whom Kumeti had dealt with as a trader and who frequently visited for forest produce. This time, however, there were other men – from the Indian Railways, from the Bhilai Steel Plant, and officers from the Chhattisgarh forest department. They told Kureti and 15 others that tracts of land in Patkalbeda were being acquired for the Dallirajhara-Rowghat-Jagdapur railway line.

In April 2018, Prime Minister Narendra Modi inaugurated a section of that railway line connecting Dallirajhara, in Balod district, and a traditional source of iron ore, to Bhanupratappur in north Bastar. The proposed 235 km-long track would connect the Rowghat mines (that local experts say has enough iron ore to last a century) to the mainland, and reduce the behemoth Bhilai Steel Plant’s dependence on the Dallirajhara mines, which have iron ore that is estimated to last for only a few years. “The Rowghat-Jagdapur line will reduce rail distance between Raipur to Jagdalpur by about 260 km. This will boost socio-economic interaction between the capital of Chhattisgarh and backward areas in and around Bastar region,” a Press Information Bureau statement said then.

The rail project has been in the works for several decades but because of its location in the heart of the Bastar region, and proximity to regions with Naxalite presence, it saw glacial progress.

But in Patkalbeda, from September to November in 2016, workers cut nearly 300 sal, saja and fruit trees for the purpose of surveying and prospecting the forest. The next year, they deployed heavy machinery and destroyed swathes of standing crop, mostly rice, says Kumeti. By January 2018, the machines had uprooted several more trees as well as stumps of those that were previously hacked. In the course of this destruction, acres of land became unfit for cultivation. Kumeti doesn’t know how much land he lost. Sangnanath Dugga, 50, another resident of the village, says he lost three acres of land. Masooram, 42, Dugga’s immediate neighbour, says he lost five acres.

### Implementing the FRA

Kumeti, Dugga and Masooram are fortunate, for they have, at least in theory, recourse to a landmark piece of legislation, which was framed in order to correct historical injustice to Adivasis.



“A key reason for complications in the implementation of the FRA is the process of staking a claim.” On paper, Sunder Singh Kumeti, a Gond tribal, is the owner of 2.5 acres of forest land. However, a portion of this land was taken for the Dallirajhara-Rowghat-Jagdapur railway line, he claims. (Below) Kumeti holds the title deed that shows his claim over forest land. He is surrounded by his neighbours in Patkalbeda village.

■ NAGARA GOPAL

For the several thousand forest villages of India, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which is informally called the Forest Rights Act or FRA, is a single sheet of laminated paper. This *patta*, or title deed, which is zealously guarded by owners, is often their most valuable possession, attesting to the rights to their land in the forest as well as to the number of acres they are entitled to. A key benefit of the deed is that villagers whose land is acquired by the government stand to gain monetary compensation.

As per the provisions of the FRA, forest dwellers have individual rights and villagers have community rights over tracts of land that they are allowed to manage in ways they deem fit. Any transfer of land for non-forest purposes requires the prior consent of gram sabhas.

On paper, Kumeti is the owner of 2.5 acres of forest land. However, a portion of this land was taken for the railway project, he claims. And to ensure that Kumeti and fellow claimants to the forest land stay clear of the railway lines, there are now Sashastra Seema Bal (SSB) forces stationed there. Attempts by villagers to point out stretches of their land which have now been made inaccessible are being thwarted by the heavily armed patrol. Work at the railway line came to a halt earlier this year after a “mini agitation” by the villagers,

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ALOK SHUKLA  
Convenor, Chhattisgarh Bachao Andolan



one of the stationed SSB troops says. “Last year, half a kilometre from where we’re standing, an improvised explosive device was detonated by the Naxalites. The government is extremely sensitive to the presence of anyone over here,” he says.

While Kumeti has a piece of paper certifying his possession of the land, Soham Darro says his claims over a piece of land have been rejected. The head of a family of four, Darro owns some pasture land, but a sizeable portion (“at least three acres”) in the reserved forest has been denied to him. Darro deposited with the village office documents to prove ownership, but they never made it back to him. “I was asked to deposit an application as well as proof of residence at the panchayat office two years ago. After that, I’ve never seen those papers. I don’t know how I’m supposed to get them back,” he says.

Kumeti and Darro are residents of the same village and their experiences exemplify the two major challenges in implementing the FRA effectively. Forest land that should ideally be managed by the gram sabha is not always legally transferred to the village community, and, sometimes, individuals are unable to claim ownership of their land.

In a blow to Kumeti and millions of others like him across India, the Supreme Court, on February 13, ordered that all Adivasis and forest dwellers whose claims under the FRA have been rejected should be evicted from the forests by July 2019. This was on the back of a petition in the court by some environment groups demanding that those who didn’t have proof to identify themselves as forest dwellers be marked as encroachers and evicted. Their presence, it was argued, endangered wildlife and forest conservation efforts.

Following protests, the court temporarily stayed its own order on February 28, and directed the States to compile the reasons for rejecting the claims and explain whether and how due process had been followed.

### A land of minerals

Chhattisgarh, 45% of which is forest area, hosts some of India’s richest mineral deposits, including coal, iron ore, bauxite and limestone. Forest land was once the fiefdom of the British. Following Independence, it was seen as the exclusive turf of the forest bureaucracy. However, after the enactment of the FRA and with mounting instances of the exploitation of this economic wealth to the detriment of Adivasis, the state’s control over these forests is being contested by the tribal and forest-dwelling populace.

The FRA was enacted to recognise the close connection of Adivasis share with forests and their natural claim to forest land and its produce. Since the

FRA came into force on December 31, 2007, there have been 4.2 million title claims over 14 million acres of forest land nationwide, of which only 1.8 million have been accorded, according to November 2018 data from the Ministry of Tribal Affairs. Chhattisgarh topped the list among States. Nearly 8.9 lakh title claims, by individuals and communities, were made in the State. Only 4.16 lakh claims, or less than half, were actually granted. The rejection rate was also highest in Chhattisgarh among the States, the data indicate.

“Chhattisgarh epitomises the necessity of the FRA. It has rich natural wealth, which corporations and industry desire. There is a large tribal population that is dependent on the forests. Yet, awareness of the FRA is poor, from the district administration level to the forest officials,” says Alok Shukla, convenor of the Chhattisgarh Bachao Andolan, a coalition of activist groups that works on FRA matters.

In Chhattisgarh, the FRA has the potential to secure the rights and livelihoods of more than 7.4 million Adivasis and traditional forest dwellers, who constitute 32% of the State’s population and are spread over at least 3.02 million hectares in over 11,500 villages. Only 5% of the total Scheduled Castes/Scheduled Tribes population in Chhattisgarh has claimed individual forest resource rights. There are no data on titles recognised in favour of women. Community forest resource rights have also not been recognised in Chhattisgarh, says Puja Priyadarshini, a lawyer and activist with the Community Forest Resource-Learning and Advocacy, an NGO network that among other things analyses the political impact of FRA implementation.

### The procedure of staking a claim

A key reason for complications in implementation of the FRA is the process of staking a claim. Adivasis may claim individual rights over forest areas if they can prove that they have been residents of the area before December 13, 2005. Their claims are vetted by a three-layered system: the gram sabha, where the claims are first submitted; a sub-divisional-level committee (SDLC) headed by a government officer; and a district-level committee (DLC) headed by the district collector.

Forest claims have to be accompanied by documentary evidence such as government identity cards, statements by elders, and physical evidence of possession or use of land. The gram sabha’s forest rights committee verify the claims. If the gram sabha is satisfied, it directs the claims to the SDLC for review. If approved, the claim is forwarded to the DLC, which is the final legal authority to approve or reject claims.

The FRA specifies that claimants



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can’t be rejected without a personal hearing and they need to be provided, in writing, the reasons for rejections. “Most of the rejections take place at the gram sabha level,” says Shukla. “And often forest and village officials, who are not supposed to be in the gram sabha committees, call the shots. The asymmetry of power is very evident in these interactions.”

Keshav Shori, founder of DISHA, an organisation that scouts forests for Adivasi settlements to educate residents about the FRA and the need to file title claims, says that in the pursuit of forest land, officials frequently concoct rules, or bring in provisions of irrelevant legislation to lay claim to forest land. “The FRA says land cannot be taken away by the government until forest rights are recognised. Often, rules that apply to non-forest lands, such as the Land Acquisition Act or the Panchayat Act, are used to capture forest land,” he says.

Early last month, the Environment Ministry granted clearance for diverting more than 841.5 hectares of forestland for mining coal in Chhattisgarh’s Parsa block. The region is part of the pristine Hasdeo Arand forests. The coal will be mined from the area for use in captive power plants operated by the Rajasthan Rajya Vidyut Utpadan Nigam Limited. The mining operations will be handled by Rajasthan Collieries Limited, a unit of Adani Enterprises. While there are

cases pending in the Supreme Court regarding the allotment of these mining contracts, Shukla says similar exercises are imminent in southern regions of Bastar, that were so far inaccessible because of Naxal activity. “The takeover of forest land by private corporations has led to a certain level of activism and Adivasis are standing up for their rights in Sarguja and Parsa. But a lot more training and awareness programmes are required in these regions (Antagarh and Kanker) to avert situations like these,” he says.

### Political consequences

The demand for due recognition of forest rights was reflected in the Assembly election results in Chhattisgarh in 2018. In the rural constituencies, the BJP lost favour with the voters, while the Congress made marginal gains, largely because it promised to properly implement the FRA. Overall, the Congress swept the State. After the Supreme Court order, Congress president Rahul Gandhi asked Chief Ministers in Congress-ruled States to file a review petition against the mass eviction of Adivasis and other forest dwellers. Soon after coming to power, Chhattisgarh Chief Minister Bhupesh Baghel convened a meeting of district authorities and civil society organisations to discuss ways in which the FRA could be better implemented. “There was a lot of latent anger regarding the poor implementation of the FRA. That impacted the BJP in the election. The Congress has taken over only recently, so the expectations that people have from the party might carry over into the Lok Sabha elections too,” says Shori.

An analysis in March by the CFR-LA finds that implementation of forest rights could be a key poll issue in a fourth of India’s 543 parliamentary constituencies. In Chhattisgarh, this could resonate in the Bastar, Kanker, Raigarh and Sarguja constituencies, CFR-LA says, given that 43-70% of the voters in these areas stand to gain from proper implementation of the FRA.

Kumeti and his compatriots are divided about the effectiveness of either the BJP or the Congress in this regard. For now, they have put their faith in the court. Through a civil rights organisation, the villagers first petitioned the Collector of Kanker for compensation and jobs in lieu of their land being taken for the project, in November 2015, when they heard whispers that their land was going to be encroached. In January 2018, they finally petitioned the High Court but are yet to hear anything concrete. Dugga says, “We understand that the government requires land for developmental projects and we aren’t against it. However, we would like our children to benefit too. What else can we bequeath them?”